

Brownfields Study Group Budget Summary

The following chart compares the 2001-2003 Governor's Budget to the recommendations in the *2000 Brownfields Study Group Final Report*. Only recommendations with proposed statutory changes have been included in this summary. For the complete report, please visit the DNR's Remediation and Redevelopment web site, www.dnr.state.wi.us/org/aw/rr/rbrownfields/bsg/index.htm, or contact Andrew Savagian at 608-261-6422, savaga@dnr.state.wi.us.

Chapter 1: Brownfields Liability Protections

Issue Title and Page Number from Study Group Report	Description of Recommendations	Is it in the Governor's budget?	What is included?	What is missing? What are potential issues?
Expand Liability Exemptions for Local Governments p. 15	In regards to Stewardship: amend the LGU exemption to eliminate reference to specific appropriations and add "the local governmental unit acquired the property using Stewardship funds."	Yes	Clarifies that the LGU exemption applies to discharges on land purchased with funds from original and 2000 Stewardship programs.	
	In regards to solid waste liability: amend the law to extend the LGU exemption so the LGU is exempt from solid waste liability.	Yes	Creates a new liability exemption from solid waste requirements for local governments (s. 292.23).	Excludes approved facilities and municipal waste landfills. Exemption from waste law is different than VPLE, does not include exemption from operations and fee requirements
Expand Local Government Cause of Action p. 18	Allow local governments to assign their rights of cost recovery under s.292.33, Wis. Stats., to a new property owner.	No	No changes to 292.33 were included in the budget.	
Remove Interim Liability Protection Language p. 20	Repeal s.292.15(2)(at), Wis. Stats., and remove any references to this statutory section.	Yes	Eliminate the interim liability exemption from current law.	
Expand Off-Site Liability Exemption for Voluntary Party Liability Exemption (VPLE) p. 23	Change s.292.15(2)(ag), Wis. Stats., to allow a full Certificate of Completion to be issued for properties impacted by off-site contamination in both soil and groundwater.	Yes	Statute changed to allow full Certificate of Completion for properties impacted by off-site contamination in both soil and groundwater.	

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Clarify Assignability of Certificates of Completion (COCs) for Voluntary Party Liability Exemptions p. 24	Change s.292.15(2), Wis. Stats., so the requirement to maintain and monitor the property applies only to the voluntary parties if they possess or control the property for which the COC was issued.	Yes	Requirement to maintain and monitor only applies to voluntary party if they own property	
	Add a section under s.292.15(2)(b), Wis. Stats., which would allow exemptions to continue to apply to a voluntary party who no longer owns the property, even if the person in current possession or control fails to maintain and monitor the property.	Yes	Clarify that liability exemptions continue to apply to a VP who no longer owns property, even if current owner fails to maintain and monitor the property.	
Voluntary Party Liability Exemption – Clarify Access in the Use of Natural Attenuation p. 25	Change s.292.15(2)(ae), Wis. Stats., to require the voluntary party who currently owns the property to allow DNR and other specific authorized parties access to enter the property to take necessary actions to determine if natural attenuation has failed and respond in the event it has failed.	Yes	If a VP obtains a Certificate of Completion using natural attenuation, the VP must allow the DNR and other parties access to the property to conduct investigation and cleanup if necessary (creates s. 292.15(2)(ae)7, Stats.).	
Clarify Liability Issues Related to Sediment Contamination p. 26	Amend the off-site liability exemption law, s.292.13, Wis. Stats., to clarify that it applies to sediments.	Yes	Statute changed to clarify that off-site exemption applies to sediments.	

Chapter 2: Brownfields Incentives for Local Governments

Issue Title and Page Number from Study Group Report	Description of Recommendations	Is it in the Governor's budget?	What is included?	What is missing? What are potential issues?
Modify Negotiated Sale in Lieu of Bidding for Tax Delinquent Brownfields Properties p. 31	Create a statutory amendment to s.75.69(2), Wis. Stats., that would allow for a county or city of the first class to transfer tax delinquent property it owns, without using the competitive bidding process, if environmental pollution is present and the property meets the definition of a brownfield.	Yes	Allow a county or city to transfer tax delinquent properties it owns without using the competitive bid process if the purchaser agrees to conduct a site assessment and cleanup the property in accordance with department rules.	
Assign Judgment of a Tax Deed Without Taking Title p. 32	Allow a county to execute a tax deed under s.75.14(1), Wis. Stats., to an individual under the same conditions as prescribed under s.75.106, Wis. Stats.	Yes	Creates new statute s.75.107, Wis. Stats., which allows a county to assign tax deeds to individuals.	
	Allow the individual who has elected to accept a tax deed under the above conditions to commence an action to bar former owners under s.75.39, Wis. Stats.	Yes		
Modify Expenditure Restraint Exemption for Municipalities p.33	Amend state statutes so unpaid property taxes and special assessments on brownfields properties not count against the spending cap for municipalities.	No		
Clarify Blight Elimination and Slum Clearance Authority p. 34	Amend the Blight Area Law and the Blight Elimination and Slum Clearance Act to include “environmental pollution” in the definition of blighted area and blighted property. Also, the municipality or redevelopment authority should have the right to make environmental inspections of properties.	No		
Modify DNR Guidelines Related to Wisconsin's Privacy Act (Act 88) p. 38	DNR's implementation strategy for Wisconsin Act 88 should not consider name or street address of a site or facility as personally identifiable information; and that if this policy cannot be instituted administratively, it should be a statutory amendment.	No	Separate legislation is underway.	

Chapter 3: Financial Incentives for Brownfields

Issue Title and Page Number from Study Group Report	Description of Recommendations	Is it in the Governor's budget?	What is included?	What is missing? What are potential issues?
Strengthen and Stabilize Environmental Revenues p. 43	Repeal the sunset on the vehicle environmental fee to maintain the fiscal health of the Environmental Fund and increase the fee to cover revenues needed for Commerce's Brownfields Grant and DNR's Site Assessment Grant.	In part	Extend the sunset on the vehicle environmental impact fee to September 30, 2003.	
	Provide a stable funding source for DNR staff.	In part	Same as above	Funding issues in FY 03-05.
Obtain Permanent Funding and Expand Brownfields Grant Program p. 44	Provide permanent funding for the Brownfields Grant Program and repeal the sunset on the vehicle environmental fee of the Environmental Fund.	In part	Extend the sunset on the vehicle environmental impact fee to September 30, 2003.	
	Increase funding for the grant program from \$12.2 million per biennium to \$15 per biennium.	No	The Brownfields Grant program has been allocated \$5.5 million in FY02 and \$6.5 million in FY03 for a total of \$12 million.	The executive budget allocates \$200,000 less than the amount in the 99-01 budget.
	Establish a quarterly application process.	No		
	Provide one additional grant specialist at the Department of Commerce (DOC).	Yes	See Site Assessment Grant	
	Modify the current requirement that the DOC award seven grants for projects located in municipalities with a population of less than 30,000 to a requirement that Commerce must award an "equitable distribution" of grant projects.	No		

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Brownfields Grant Program (continued)	Department of Commerce Budget Request (this was not a Study Group Recommendation) - Exclude EPA and DNR liens and back taxes from eligibility under the grant program.	Yes	New statutory language (s. 560.13(2)(a)1m, Wis. Stats.) which does not allow grant proceeds to be used to pay EPA or DNR liens or delinquent taxes, interest or penalties.	
	Department of Commerce Budget Request (this was not a Study Group Recommendation) - Eliminate the requirement that the Commerce must allocate a specified amount of total grant monies for grants of certain amounts (<\$300,000, \$300,000 to \$700,000, and >\$700,000).	Yes	Budget repeals statutory section which requires specified amounts of the total grant money to be awarded to grants in certain size categories.	
Modify Environmental Remediation Tax Incremental Financing (ER TIF) District p. 46	Include delinquent taxes as an eligible cost.	No		
	Extend the ER TIF period from 16 to 23 years.	No		
	Support Department of Revenue technical changes.	Yes	Many technical changes to ER-TIF law which make ER-TIFs more like traditional TIFs. Changes include: * Requirements for creation of Environmental Tax Incremental Districts (ER-TIDs) * Changes to timing when ER-TIDs can be created * New reporting requirements	

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Modify the DNR Site Assessment Grant (SAG) Program p. 47	Continue the DNR's Brownfields Site Assessment Grant program and increase SAG funding to \$5 million per biennium.	No	Transfer administration of the SAG program and 1.0 FTE SEG position from the DNR to the Dept. of Commerce. Allocates \$1 million for SAG in FY02.	The executive budget allocates \$450,000 less than the amount in the 99-01 budget.
	Establish a quarterly application process for the SAG.	No		
	Incorporate concepts of the original Sustainable Urban Development Zone (SUDZ) pilot program into the SAG program. ➤ modify the eligible activities of the SAG to include area-wide groundwater investigations ➤ clarify that a local government may submit a single grant request for multiple contiguous properties that are under different ownership	No		
	Clarify that asbestos abatement is an eligible SAG activity only if it is part of demolition.	No		
	Provide the DNR's Bureau of Community Financial Assistance with one additional FTE to administer the SAG program.	No		
Modify the Development Zone Tax Credits p. 49	Allow the tax credits to be transferable, within certain limits.	No		
	Clarify that the tax credits to be applicable to the owner's State of Wisconsin income, and not just to income generated specifically on the site.	No		

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Streamline the Land Recycling Loan Program p. 51	Eliminate the use of the Intent to Apply (ITA) form and the December 31 deadline associated with the ITA.	No		
	Establish a quarterly application process for the LRLP.	No		
	With the quarterly application process, clarify that the 40% of the funds that can be used for landfill projects would be calculated on a fiscal year basis.	No		
	Replenish LRLP to \$20 million at the end of every even-numbered calendar year.	No		
	Allow other credit quality collateral that will meet typical financial underwriting criteria to provide adequate security for the Land Recycling Loan, as opposed to currently allowing only the "Full Faith and Credit" of the municipality (i.e. General Obligation Bonds).	No		
	When a necessary part of remediation, allow demolition as an eligible activity.	No		
	Make the loan available up front for Phase I and II environmental assessments, as well as site investigations.	No		
Expand Funding Opportunities for the Cleanup of Brownfields p. 53	<p>The Brownfields Study Group posed two recommendations for additional funding:</p> <ol style="list-style-type: none"> 1. Cleanup funds for public greenspace and recreational areas. 2. General cleanup moneys for other types of brownfields properties. 	In part	The budget adds brownfields remediation as an eligible expense for the Gaming Economic Diversification Grants and Loans under s. 560.138, Wis. Stats.	It is unclear if this addresses the recommendation of the Study Group, how much money would be available for brownfields, and what the eligibility and selection criteria will be.

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Target Gaming Revenue for Menomonee Valley Brownfields Redevelopment Project Funding p. 56	<p>Dedicate a majority of the Potawatomi gaming revenues to support the implementation of the Menomonee Valley Land Use Plan through brownfields redevelopment including:</p> <ul style="list-style-type: none"> ➤ \$2.1 million annually in additional sustainable urban redevelopment funds grants to the City of Milwaukee for land acquisition, demolition, redevelopment and infrastructure and environmental investigation and remediation; ➤ \$1 million annually in additional grants to the City of Milwaukee to be administered by the Milwaukee Economic Development Corporation to continue its matching grant program; and ➤ \$900,000 annually in grants to Menomonee Valley Partners, Inc., a tax exempt non-profit corporation, to support the creation of jobs and private sector implementation of the Menomonee Valley Land Use Plan. 	In part	\$2 million of gaming revenues was transferred to the Environmental Fund to be given to MEDC as grants to cleanup and redevelop the Menomonee Valley	